

DECLARATION OF ANNE WHITTAKER

I, Anne Whittaker, do hereby declare as follows:

1. I am over eighteen years of age and am competent to testify regarding the matters stated in this declaration. I give this declaration voluntarily. I have not been promised any benefit, been coerced, or been threatened in any manner in exchange for the testimony in this declaration.
2. I am employed by Saks Fifth Avenue (“Saks”), located at 611 Fifth Avenue, New York, New York 10022. I am a Sales Director (“Director”) in the designer apparel department. I began working at Saks on or about November 2008. Since that time, I have worked as an Assistant Selling Manager and a Selling Manager in the jewelry department before becoming a Sales Director.
3. A Director at Saks is responsible for ensuring that sales associates are reaching their sales goals each month, reviewing analytical data about the business to help maximize sales, and observing customer experiences and customer interactions with associates to ensure that each Saks customer is happy and having a positive shopping experience.
4. Most of the sales associates that I manage are paid under Saks’ draw vs. commission compensation plan. Under the plan, each associate is paid a set draw that corresponds to an hourly rate. They then have to sell a certain amount of merchandise to earn enough commissions to cover their draw. Their commission is reduced when customers return merchandise that the sales associate sold. If an associate does not sell enough to meet their draw amount, they will go into arrears and the amount they are in arrears will further reduce their commission the next week.

5. When they are hired, sales associates go into training for the first week. During the second week, sales associates are assigned a mentor that they can shadow in order to learn the product. During the second week, I make sure to discuss with my sales associates how they are paid in order to make it clear. I do this routinely.

6. Some sales associates request that their draw amount be reduced so they can start earning commissions faster in a given week. Many associates have requested this on their own.

7. After a sales associates' first reduction in their draw, I make sure to partner with them to help them understand how to make more sales and pick their business up.

8. There is a difference between meeting your draw and meeting required sales goals. For instance, each associate has monthly sales goals and must meet 80% of the goal at a minimum. If a sales associate cannot meet this 80% level, they are also placed on a performance improvement plan.

9. Saks encourages sales associates to cross-sell products all over the entire store. The extent that sales associates do this depends on their skills and how they choose to sell. It also depends on what department you are cross selling in and the actual commission on the product (every product has a different commission). For instance, it seems to be more difficult to cross-sell jewelry as opposed to other products in the store. To facilitate cross-selling, some associates partner with other associates who work on other floors. One associate simply brings the customer to the other associate to be able to make another sale. In these cases, when the customer is purchasing, an "assist" can be entered at the register so that the partnering associate can get a percentage of the commission for that product. Some of the best associates have partners – they split everything.

10. When merchandise is returned and Saks is able to identify the original commission sales associate that sold the merchandise, the amount of commission associated with the original sale is deducted from the future commissions of the associate who sold the item. The deduction is made at the same rate the commission on the original sale was paid.

11. Each sale transaction at Saks is issued a transaction number which is linked to an amount of commission and an associate who received such commission. If the returning customer has a receipt, the transaction number on that receipt is cross-referenced to the associate. If no receipt is presented, the next step is to look up the transaction by credit card. If there is no credit card associated with the transaction, the customer's name and address is referenced to see what transactions are associated with it. If the name and address information is not found, then I would be called to take further steps to find the associate who made the sale and ultimately approve the return.

12. Saks does not deduct returns from any sales associate's commission when a sales associate cannot be linked to the original sale. I have never done this, nor have I ever seen or heard of another Director doing this. It is Saks' policy not to do this.

13. Saks' general return policy is that an item can be returned to the store within 30 days with a receipt. That said, even if a customer tries to return the item after 30 days, Saks will generally take it back because of its overall business policy to satisfy the customer's needs. There are times, however, when I will not approve a return (for instance, when a product looks very worn but the tag is still on).

14. Not all returns will reduce an associate's commission. For instance, if a defective item falls apart or there is another reason for the return which cannot be attributable to the associate, then I (and all Directors) have the discretion to do what is called a "productivity

adjustment” and waive the deduction to commission. This is done according to the discretion of the Director.

15. Another instance where a productivity adjustment is done is when an associate rings a sale under the wrong associate number. The productivity adjustment works to make the commission go to the proper associate.

16. There are vendor clinics at Saks almost every day. Vendor clinics are meetings in which vendors bring in upcoming and new merchandise to show it off. Some clinics are held in the morning sometime before the store opens. These morning clinics are combined with the morning meeting that we have before the store opens. Sales associates clock-in in the morning before the morning meeting and/or vendor clinic.

17. On Wednesdays, Saks has an “all-store” meeting in the morning which all associates working that shift are required to attend. These meetings cover certain promotions and sales events occurring in the store and discuss new products launches.

18. Most floors in the store hold a later shift meeting as well which is done at the beginning of the later shift. These meetings are very short but contain the same information as the morning meeting. It is about 15 minutes maximum.

19. During some evenings there is a social event held outside the store where vendors also show off product. These events offer dinner and drinks and associates are invited to attend but are off the clock.

20. I have never seen, been told, or received any information that sales associates conduct sales after clocking out at the end of their shift or at the start of their meal breaks. If I ever found out my associates were doing this, I would not condone it.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 31st day of March, 2015 in New York, New York.



ANNE WHITTAKER